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| APPLICATION NO.                                                               | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/655,227                                                                    | 09/04/2003  | Brian G. Morin       | 5514A               | 5700             |
| 25280                                                                         | 7590        | 02/10/2004           | EXAMINER            |                  |
| MILLIKEN & COMPANY<br>920 MILLIKEN RD<br>PO BOX 1926<br>SPARTANBURG, SC 29304 |             |                      | EDWARDS, NEWTON O   |                  |
|                                                                               |             |                      | ART UNIT            | PAPER NUMBER     |
|                                                                               |             |                      | 1774                |                  |

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |              |
|------------------------------|-----------------|--------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s) |
|                              | 10/655,227      | MORIN ET AL. |
|                              | Examiner        | Art Unit     |
|                              | N Edwards       | 1774         |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1)  Responsive to communication(s) filed on \_\_\_\_\_.
- 2a)  This action is **FINAL**.                            2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4)  Claim(s) 1-18 is/are pending in the application.
  - 4a) Of the above claim(s) 10-18 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-9 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) 1-18 are subject to restriction and/or election requirement.

### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some \* c)  None of:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims s 1-9, drawn to a polypropylene tape fiber, classified in class 428, subclass 372.
- II. Claims 10-18, drawn to s tape fiber having shrinkage rate, classified in class 428, subclass 394.

The inventions are distinct, each from the other because:

Inventions group I and group II are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because a group I does not require the shrinkage rate. The subcombination has separate utility such as low shrinkage yarn.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with William parks on 1/12/03 and 1/21/04 a provisional election was made without traverse to prosecute the invention of group I,

claims 1-9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Morin (U.S. 6,541554) alone or optionally taken with Zhao '211.

Morin teaches polypropylene fibers, which include tapes, which are made by extrusion of a sheet then cutting the sheet into fiber (tapes or slip film fiber yarn). See column 5 line 59 and column 4, line 49.

Morin further teaches the fibers comprise about 100 to 5000pm of nucleating age at column 4, line 40. Morin still further teaches the nucleating agent (compounds) are DBS, PMDBS and 3, 4- DMDSS and others at column 4 line 31-39. Morin yet still further teaches the finer can be made into fabric articles such as carpet backing.

Zhao '211 is cited to show the polypropylene articed having nucleating, as agent as disclose by Morin inherently have a tensile strength of about 4,931psi.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The enclosed patent discloses the state of the prior art.

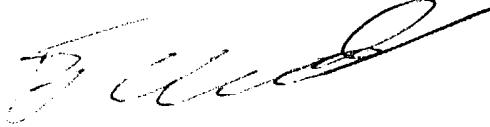
Art Unit: 1774

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Edwards whose telephone number is 571-272-1521. The examiner can normally be reached on Monday-Friday from 6:00 am to 8 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (571) 2721526. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-0991.

N. Edwards/af  
February 2, 2004

  
N.EDWARDS  
PRIMARY EXAMINER